

REMARKS

Claims 1-5 and 7-15 are now pending in the application. Minor amendments have been made to the specification and claims to simply overcome the objections to the specification and rejections of the claims under 35 U.S.C. § 112. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

SPECIFICATION

Applicant has amended the specification according to the Examiner's suggestions to include the issued Patent number and issue date of the parent application.

CLAIM OBJECTIONS

Claims 3, 4, and 12 stand objected to for certain informalities. Applicant has amended claims 3, 4, and 12 according to the Examiner's suggestions and, therefore, claims 3, 4, and 12 should now be in condition for allowance.

REJECTION UNDER 35 U.S.C. § 112

Claims 7-15 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed.

The Examiner asserts that as to claims 7 and 12, it is unclear as to what the transfer mechanism in the second drive line is referring to in line 3. The Examiner states that "if the PTU (26) is supposed to be referred to as the transfer mechanism, then this should be clarified." Applicants note that the specification states in paragraph [0018] that "the drive axle assembly can also find application in other drive line applications including, but not limited to, limited slip differentials of the type used in full

time transfer cases and front wheel drive transaxles.” Accordingly, Applicants note that the use of the term “transfer mechanism” is intended to refer to both PTU type and transfer case type transfer mechanisms. Accordingly, Applicants submit that the language of claims 7 and 12 directed to the “transfer mechanism” is intended to generically refer to any of these systems or any others that function equivalently. Applicants submit that the use of the term “transfer mechanism” is not unclear within the art of vehicle drive trains and is, therefore, not indefinite under 35 U.S.C. § 112, second paragraph. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

REJECTION UNDER 35 U.S.C. §§ 102 & 103

Claims 1-4 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Mohan et al (U.S. Pat. No. 6378682). This rejection is respectfully traversed.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over First 2 of Mohan et al (U.S. Pat. No. 6378682) in view of Figure 9 of Mohan et al (U.S. Pat. No. 6378682). This rejection is respectfully traversed.

Claims 6-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mohan et al (U.S. Pat. No. 6378682) in view of Burns et al (U.S. Pat. No. 6095939) and Shibahata et al (U.S. Pat. No. 5135071). This rejection is traversed.

At the outset, Applicants note that claim 1 has been amended to include the limitations of dependent claim 6. Applicant notes that previous claim 6, as well as independent claims 7 and 12, were rejected under 35 U.S.C. § 103(a) as being unpatentable over commonly assigned U.S. Patent No. 6,378,682 in view of Burns et al and Shibahata et al. Applicants submit herewith a Statement of Common Ownership of

Prior Art Citation and Invention to Disqualify the '682 reference as prior art under 35 U.S.C. § 103(c). Therefore, reconsideration and withdrawal of these claims are respectfully requested.

DOUBLE PATENTING REJECTION

Claims 1-15 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 10, 11, 12, 17, 18, 23, 25, 29, 30, 32, and 34 of U.S. Patent No. 6,626,787. Accordingly, Applicants submit a Terminal Disclaimer herewith for overcoming the double patenting rejection. Therefore, reconsideration and withdrawal of this rejection are respectfully requested.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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